APPENDIX B

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of 2022 Quadrennial Regulatory Review – Review of the Commission's Broadcast Ownership Rules and Other Rules Adopted Pursuant to Section 202 of the Telecommunications Act of 1996	)	MB Docket No. 22-459

REPLY COMMENTS OF NEXSTAR MEDIA INC.

Nexstar Media Inc. ("Nexstar") hereby submits its reply comments in response to the Federal Communications Commission's ("FCC" or "Commission") Public Notice commencing the 2022 quadrennial review. The opening comments further demonstrate that repeal or reform of the Local Television Ownership Rule is urgently needed to allow broadcast television stations to continue their vital role of supporting, informing, and protecting their local communities in the transformed 21st century media ecosystem. When considered in light of the FCC's statutory obligation to evaluate whether its media ownership rules remain "necessary in the public interest as the result of competition[,]"[1] it is plain that the current limitations on local broadcast television ownership cannot legally stand, at least in their present form.

No commenter can or does seriously dispute the marketplace forces that challenge the ability of local television broadcasters to effectively and efficiently serve local community needs and interests.[2] As just several examples, the National Association of Broadcasters once again documents the continued growth in "competition for audiences and advertising from audio and

[1] Telecommunications Act of 1996, Pub. L. No. 104-104, § 202(h), 110 Stat. 56, 112 (1996).

[2] *See* Comments of Nexstar Media, Inc., MB Docket No. 22-459, at 10-22 (Mar. 3, 2023).

video content providers of all types and from digital ad platforms, including the behemoth tech and social media platforms."[3] Heritage Broadcasting of Michigan ("Heritage") similarly notes a BIA/Benton Foundation analysis demonstrating that the migration of local news "and the advertising dollars that support it" to technology platforms "puts a severe strain on the economics of local broadcasters and threatens their continued investment in local journalism."[4] Heritage also notes that the "increase in streaming . . . means that, while still valuable, a network affiliation no longer carries the value it once did" because "[t]he networks themselves are now competing with their own affiliates."[5] These and other commenters echo Nexstar's own observations in its opening comments, and none of those realities can reasonably be controverted.[6]

In the face of this record evidence, suggestions that the FCC should make its local television ownership regulations more restrictive by, for example, further limiting relief under the Top-Four Prohibition,[7] are specious. Nor is there any basis to limit regulatory relief to smaller

[3] Comments of the National Association of Broadcasters, MB Docket No. 22-459, at 15-25 (Mar. 3, 2023).

[4] Comments of Heritage Broadcasting of Michigan, MB Docket No. 22-459, at 6 (Mar. 3, 2023) ("Heritage Comments") (quoting "Economic Impact of Big Tech Platforms on the Viability of Local Broadcast News," BIA Advisory Services, 2021, https://www.benton.org/headlines/economic-impact-big-tech-platforms-viability-local-broadcast-news).

[5] *Id.* at 10.

[6] Nexstar, however, takes issue with Heritage's suggestion that Nexstar's recent acquisition of a majority interest in The CW network comes at the cost of "ignoring locally focused programming." *Id.* at 12. That suggestion is simply untrue. Nexstar remains more committed than ever to serving the needs and interests of the local communities that its broadcast stations serve.

[7] *See* Comments of NCTA – The Internet & Television Association, MB Docket No. 22-459, at 2 (Mar. 3, 2023) ("NCTA Comments").

markets or companies with fewer stations,[8] as Nexstar has explained before.[9] To the contrary, the record reflects that the Local Television Ownership Rule is no longer necessary in the public interest in light of competition and that the FCC should eliminate the rule in its entirety or, at the very least, remove the Top-Four Prohibition.[10]

Given the overwhelming evidence that the current regulations governing local television ownership are obsolete, it is hardly surprising that the commenters opposing reform largely parrot (and in one case simply resubmit[11]) the same irrelevant and meritless arguments they made in the 2018 quadrennial review proceeding. MVPD commenters, for instance, continue their improper efforts to further enhance their own commercial leverage by seeking changes to the retransmission consent rules. While some do so directly,[12] the American Television Alliance attempts to achieve the same basic result by requesting that the FCC change its rules to consider a party to hold an attributable interest in a station whenever it negotiates retransmission consent for that station.[13]

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[8] *See* Heritage Comments at 2.

[9] *See* Reply Comments of Nexstar Media Inc., MB Docket No. 18-349, at 7 (Oct. 1, 2021) ("Nexstar Refresh Reply Comments").

[10] Although Nexstar appreciates the interest in enhancing minority and female ownership in television and other media, the answer does not lie in restrictive changes to the media ownership rules. *See* Nexstar Refresh Reply Comments at 12. Rather, the answer is a regulatory scheme that maintains a robust local television industry into which capital to minority and non-minority enterprises will flow. *See id.*

[11] *See* Ex Parte Letter from Matthew F. Wood, VP of Policy, Free Press, MB Docket No. 18-349, (Feb. 24, 2023) (attaching Free Press's September 2021 comments in the 2018 quadrennial review record refresh proceeding).

[12] *See* NCTA Comments at 3-4, 10-13.

[13] *See* Comments of the American Television Alliance, MB Docket No. 22-459, at 6-8 (Mar. 3, 2023) ("ATVA Comments").

Yet, as Nexstar and others have shown and the FCC has agreed, quadrennial reviews do not present an appropriate vehicle to consider changes to the Commission's retransmission consent rules.[14]

Nor are quadrennial reviews the proper forum to discuss matters concerning Nexstar that are either pending or have long been settled.[15] While Nexstar will not address those matters here, it observes that various references by opposing commenters to baseless litigation lodged against Nexstar in other proceedings are not only irrelevant and beyond the scope of this proceeding, but indicative of the lack of substance in these commenters' attempts to keep antiquated broadcast ownership rules in place.

Finally, there is no merit to the continuing complaints of various commenters about "loopholes" in the television ownership rules—*i.e.,* sharing agreements, multicast streams, and LPTV/Class A stations—that are allegedly in need of closing.[16] As Nexstar has demonstrated, sharing agreements are permissible arrangements that allow broadcasters to innovate and enhance the programming they provide to their local communities.[17] The Commission's permissive approaches to the programming of multicast channels as well as Class A and LPTV stations has led to numerous benefits including additional programming choices and targeted viewing options

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[14] *See* Nexstar Refresh Reply Comments at 7-10. The attribution rules, moreover, properly focus upon influence over a station's core operational functions, not the ability to negotiate a single type of private contract. *See, e.g.*, *Attribution of Ownership Interests*, 97 FCC 2d 997, 999, 1005 (1985) (subsequent history omitted).

[15] *See* ATVA Comments at 6-8; Comments of Free Press, MB Docket No. 18-349, at 18 (Sept. 2, 2021).

[16] *See* ATVA Comments at 2; *see also* NCTA Comments at 7 (proposing to apply Top Four rule to LPTV and multicast streams); Comments of Media and Democracy Project ("MADP"), MB Docket No. 22-459, at 5, 15 (Mar. 2, 2023) ("MADP Comments") (proposing to attribute various sharing agreements between television stations). With regard to MADP's calls for removal of the UHF discount and reinstatement of the main studio rule, *see* MADP Comments at 15, these proposals are outside the scope of the quadrennial review.

[17] *See* Nexstar Refresh Comments at 15.

for underserved audiences.[18] Far from being "loopholes," sharing agreements and the programming streams of LPTV/Class A stations and digital multicasts foster scale and innovation allowing television broadcasters to provide local news and other programming to often-underserved communities that would not be possible otherwise.

CONCLUSION

Once again in this 2022 quadrennial review proceeding, the record in favor of repealing or relaxing the Local Television Ownership Rule is overwhelming and the arguments opposing such relief are self-interested, irrelevant, and/or meritless. Nexstar again urges the Commission to bring its rules into the 21st century by eliminating the rule in its entirety or, at a minimum, removing the Top Four prohibition.

Respectfully submitted,

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[18] *See id.* at 12-15.